

REMARKS/ARGUMENTS

The arguments and amendments presented herein include the arguments and amendments Applicants discussed with the Examiner during phone interview dated November 19, 2008. The Examiner requested Applicants to submit the discussed arguments and amendments for reconsideration, which Applicants present herein. Applicants submit that the arguments and amendments presented herein make the substance of the phone interview of record to comply with 37 CFR 1.133. If the Examiner believes that further information on the interview needs to be made of record to comply with the requirements, Applicants request the Examiner to identify such further information.

1. Claims Comply with 35 U.S.C. §112, par. 1

The Examiner found that claims 17 and 39 do not comply with the written description requirement (35 U.S.C. §112, par. 1). (OA3, pgs. 3-4) Applicants traverse.

Claim 17 recites that synchronizing of local license related data on the client further comprises receiving a request to renew the license from the client and make payment for the renewal in response to the client determining that the updated license status indicates that the license has expired.

Applicants submit that the requirements of claim 17 are disclosed on pg. 10-11, paras. 2-3 (citing the Published PCT Application WO04057446), which recites:

When the client computer 108 is reconnected to the network license a synchronization of entries which have been made in local license database 308 is performed ... and renewal module 306 is started to renew the license and provide payment for the amount of usage of the content data after expiration of the original license. This way license renewal module 306 implements an automatic process for renewal of a license which has been previously purchased.

The Specification specifically discloses that as part of synchronization, the client can renew the license and provide for payment after the expiration of the original license, or determine that the updated license status indicates that the license has expired. Thus, the Specification provides sufficient written description of the requirements of claim 17.

Amended claim 39 recites that the updated license status includes an amount of usage of the content data at the client after the license status is expired at the client when there is no more available content usage. Applicants amended claim 39 to incorporate the added element of claim

1 of the available content usage, which is disclosed in at least the last paragraph of pg. 3, pg. 8, para. 4, pg. 12, para. 1 of the Specification

Applicants submit that the requirements of claim 39 are disclosed on pg. 10, para. 2, which recites:

The digital rights management method indicated in the XML file may allow that a user continues to use the content data even after the original license has been exhausted provided that the amount of usage of the content data after expiration of the original license is tracked and stored by the common license client 311 in local license database 308 for later payment.

The Specification expressly discloses that amount of usage of content after expiration of the license is tracked. Thus, the Specification provides sufficient written description of the requirements of claim 39.

Accordingly, Applicants request the Examiner to withdraw the written description requirement rejection because at least the above cited disclosure of the Specification provides adequate written description for the requirements of claims 17 and 39.

2. Amended Claims Comply With 35 U.S.C. §112, par. 2

The Examiner rejected claim 1 as indefinite because it is unclear whether the license status in the license information and the updated license status in the local license related data are different entities that indicate different status information. (OA3, pgs. 3-4)

Amended claim 1 recites a method for providing of content data to a client, comprising: receiving a selection of content data from the client; generating a file comprising license information and a locator for the content data, wherein the license information indicates a license status enabling the client to access the content data, wherein the license status indicates available content usage; sending of the file to the client; and synchronizing with local license related data on the client indicating an updated license status indicating the updated available content usage updated based on an amount of client usage of the content data, wherein the license status including the available content usage is updated at the client, and wherein the client usage that results in the updating of the client usage in the local license related data occurs at the client following the sending of the file to the client and before the synchronizing.

Applicants amended claim 1 to clarify that the license status indicates available content usage and that an updated license status indicates updated available content usage updated based on an amount of client usage of the content data, and that the license status including the available content usage is updated at the client, and that the client usage that results in the updating of the client usage occurs at the client. This added requirements on updated available client usage is disclosed in at least pg. 8, lines 4 and pg. 12, para. 1, which discloses updating license information indicating available usage, such as “remaining number of playbacks.”

Applicants amended claim 1 to clarify that the updated license status in the local license related data comprises the license status from the license information in the file that is updated. This amendment clarifies the relationship between the updated license status in the local license and the license status from the license information. Consequentially, this amendment overcomes the indefiniteness rejection of claim 1.

Applicants submit that this amendment clarifies the relationship of license information and updated license information to overcome the indefiniteness rejection of claim 1.

The Examiner rejected claim 17 as indefinite finding that the relationship of the synchronizing of claims 1 and claim 17 is unclear. (OA3, pgs. 3-4) Applicants amended claim 17 to overcome this rejection by removing the requirement that the added limitation of claim 17 is part of the synchronizing operation of claim 1.

The Examiner rejected claim 39 as indefinite because it is unclear whether usage is tracked after the license has expired. (OA3, pg. 4)

To overcome this rejection, Applicants amended claim 39 to recite that updated license status includes an amount of usage of the content data at the client after the license status is expired at the client when there is no more available content usage.

Claim 39 was amended to conform to the requirements of claim 1 and to clarify that the license has expired when there is no more available content usage. This added requirement is disclosed on at least pg. 10, para. 1, pg. 12. Further the claim is clear that the updated license includes the amount of usage after the license has expired.

Applicants submit that the amendments to claim 39 overcome the indefiniteness rejection.

3. Claims 1, 2, 16, 17, 39, and 40 are Patentable Over the Cited Art

The Examiner rejected claims 1, 2, 16, 17, 39, and 40 as anticipated (35 U.S.C. §102) over Remer (U.S. Patent App. Pub. No. 2003/0088516) and Aburri (U.S. Patent No. 7,203,966). Applicants traverse.

Applicants first traverse this rejection because an anticipation finding cannot be made by finding that two different references in combination teach the claim requirements. (See, MPEP Secs. 2131.01, pg. 67 (Rev. 6, Sept. 2007). For this reason, the basis of the rejection in anticipation (35 U.S.C. §102) is improper. Applicants submit that if the Examiner maintains the rejection in view of these references, the Examiner needs to withdraw the anticipation rejection and enter an obviousness rejection under 35 U.S.C. §103.

Amended claim 1 recites a method for providing of content data to a client, comprising: receiving a selection of content data from the client; generating a file comprising license information and a locator for the content data, wherein the license information indicates a license status enabling the client to access the content data, wherein the license status indicates available content usage; sending of the file to the client; and synchronizing with local license related data on the client indicating an updated license status indicating the updated available content usage updated based on an amount of client usage of the content data, wherein the license status including the available content usage is updated at the client, and wherein the client usage that results in the updating of the client usage in the local license related data occurs at the client following the sending of the file to the client and before the synchronizing.

Applicants amended claim 1 as discussed during the phone interview to clarify that an updated license indicates an updated available content usage of the amount of client usage that is still available for use.

The Examiner cited paras. 77 and 79 of Remer with respect to the pre-amended claim requirements of the sending of the license and the synchronizing. (OA3, pg. 5) Applicants traverse.

The cited para. 77 discusses an interaction of a POS (point of service) computer and a servicing component. The servicing component pings the POS computer to retrieve the current POS license and verifies that the digital signature of the POS license is valid. The service agent collects a copy of a new POS license into a discovery database. If there is an existing license

with the same Node ID, the service agent must synchronize the retrieved POS license with the existing license in the discovery database.

Para. 79 further mentions that the POS computer upon receiving a license compares the Node ID field of a license from the discovery database with the node ID of the POS's current license. If the Node IDs differ, then the POS discards the discovery database license. If the node IDs are the same, then the POS must synchronize the discovery database license with the POS current license.

Thus, the cited paras. 77 and 79 discuss how to synchronize a license between a POS computer and a service agent. However, nowhere is there any teaching or suggestion of the claim requirement of synchronizing with local license related data on the client indicating an updated license status indicating updated available content usage based on an amount of client usage of the content data following the sending of the file to the client having the license information. Although the cited Remer discusses how to synchronize a license, there is no disclosure or mention of the claim requirement that synchronization occurs with respect to updated license status indicating an updated available content usage based on the client usage.

The Examiner recognized the above noted deficiency of Remer, finding that Remer does not explicitly disclose synchronizing with local license related data on the client indicating an updated license status based on an amount of client usage of the content data following the sending of the file to the client and before synchronization. The Examiner cited col. 17, lines 55-69 of Aburri as teaching this claim requirement to overcome the deficiency of Remer. (OA3, pgs. 5-6) Applicants traverse

The cited col. 17 of Aburri mentions that a license store stores licenses received by the digital rights management (DRM) system. The license store may be a subdirectory of a drive such as a hard disk or network drive. This license store 38 is in the user's computing device, and an enforcement architecture in the user computing device 14 specifies license rules that must be satisfied before digital content can be rendered. (Aburri, col. 6, lines 40-56).

Nowhere does this cited Aburri teach or disclose synchronizing with local license related data on the client indicating an updated license status indicating updated available content usage updated based on an amount of client usage. Instead, the cited Aburri discusses how a license store in the user's computer stores license data, not how synchronization occurs with respect to updated available content usage at the client. .

Accordingly, amended claim 1 is patentable over the cited art because the cited combination of Remer and Aburri do not teach or disclose the requirements of these claims.

Claims 2, 16, 17, 39, and 40 are patentable over the cited art because they depend from claim 1, which is patentable over the cited art for the reasons discussed above. Moreover, the following discussed dependent claims provide additional grounds of patentability over the cited art.

Amended claim 39 depends from claim 1 and further requires that the updated license status includes an amount of usage of the content data at the client after the license status is expired at the client when there is no more available content usage.

The Examiner cited cols. 63-64 of Aburri as disclosing the additional requirements of claim 39. (OA3, pg. 8) Applicants traverse.

The cited para. 64 mentions that a license may expire because the end of the time period for the license has been reached. Further, a license may expire if the user does not connect and synchronize with the license synchronization server before the expiry date. A copy/replacement license may be refreshed and the expired copy/replacement license will be deleted and replaced with an identical license having a later expiry date. When a device expires, the device is removed from the active device list.

Nowhere do the cited cols. 63-64 teach or disclose that the amount of usage indicated in local license related data indicates the amount of usage at the client after the license status is expired at the client. Instead, the cited cols. 63-64 discuss how a license may expire and be refreshed. There is no mention or teaching in the cited Aburri of keeping track of an amount of client usage of the content data at the client after the license status is expired when there is no more available content usage.

Accordingly, amended claim 39 provides additional grounds of patentability over the cited Cheng and Remer because the cited parts of these references do not teach or suggest all the claim requirements.

Claim 40 depends from claim 1 and further requires that during synchronization, determining the amount of usage of the content data at the client after the license status is expired at the client and receiving payment for the amount of usage of the content data after the license status is expired, wherein the synchronizing with the local license related data comprises

renewing the local license related data to allow continued use of the content data in response to receiving the payment for the amount of usage.

The Examiner cited the above discussed cols.63-64 of Aburri, which discusses how a license may expire and be refreshed. There is no teaching or disclosure in the cited Aburri of determining the amount of usage during synchronization with local license related data and receiving payment for usage after the license has expired. Instead, the cited Aburri discusses different ways a license can expire. There is no teaching or suggestion of determining usage after a license for the content data being used has expired during synchronization.

Accordingly, claim 40 provides additional grounds of patentability over the cited Cheng and Remer because the cited parts of these references do not teach or suggest all the claim requirements.

4. Added Claims 45-46

Added claim 45 depends from claim 1 and further requires that the available content usage indicates a fixed number of allowed play, wherein the license status is expired after the content is rendered the fixed number of allowed playbacks.

The added requirements of claim 45 are disclosed on at least pg. 8, para. 4 and pg.12 of the Specification.

Added claim 46 depends from claim 1 and further requires that the available content usage indicates a duration of the content playback.

The added requirements of claim 46 are disclosed on at least pg. 8, para. 4 of the Specification.

Claims 45 and 46 are patentable over the cited art because they depend from base claim 1, which is patentable over the cited art for the reasons discussed above and because the additional requirements of these claims in combination with the base claims provide further grounds of patentability over the cited art.

Conclusion

For all the above reasons, Applicant submits that the pending claims 1, 2, 10, 16, 17, and 41-46 are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 09-0460.

Amdt. dated November 24, 2008
Reply Third Office Action, July 23, 2008

Serial No. 10/539,644
Docket No. DE920020028US1
Firm No. 0057.0048

The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

Dated: November 24, 2008

By: _____/David Victor/_____

David W. Victor
Registration No. 39,867

Please direct all correspondences to:

David W. Victor
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212
Tel: (310) 553-7977
Fax: 310-556-7984